

SECOND REGULAR SESSION

HOUSE BILL NO. 2040

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BRAY, RIBACK WILSON (25) AND LOWE (Co-sponsors).

Read 1st time February 25, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4883L.011

AN ACT

To amend chapter 640, RSMo, by adding thereto eight new sections relating to the regulation of chip mills.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 640, RSMo, is amended by adding thereto eight new sections, to be
2 known as sections 640.280, 640.283, 640.286, 640.289, 640.292, 640.295, 640.298, and 640.301,
3 to read as follows:

640.280. As used in sections 640.280 to 640.301, the following terms mean:

- 2 (1) "Chip mill", a facility that produces wood chips as part of a larger
3 manufacturing process continued at the same facility or at other facilities to which the
4 wood chips are eventually transferred, including, but not limited to, facilities that produce
5 wood chips for eventual use in the manufacture of paper, cardboard, fiberboard,
6 strandboard, and similar products, but not including facilities that only produce wood
7 chips that have independent utility, such as mulch, animal bedding, and similar products,
8 or facilities that only produce wood chips as a secondary product during a manufacturing
9 or milling process;
- 10 (2) "Director", the director of the department of natural resources;
- 11 (3) "Modification", any physical change or series of changes to a chip mill that
12 result in more than a ten percent increase in its maximum potential wood consumption
13 capacity, including the restart of operations at a chip mill that has been inactive for six or
14 more consecutive months prior to January 1, 2003;
- 15 (4) "Person", any individual, partnership, copartnership, firm, company, public
16 or private corporation, association, joint stock company, trust, estate, political subdivision,
17 or any agency, board, department, or bureau of the state or federal government, or any

18 other legal entity.

640.283. 1. The provisions of sections 640.280 to 640.310 shall not supercede any
2 other applicable law, and the director shall harmonize, to the greatest extent practicable,
3 the permitting process required pursuant to such sections with permitting processes
4 required by other laws and regulations.

5 2. The director shall require a permit pursuant to the provisions of sections 640.280
6 to 640.310 for any chip mill that begins operations or undertakes a modification on or after
7 January 1, 2003.

8 3. The director may establish reasonable application fees by rule.

9 4. An application for a permit shall contain the following information:

10 (1) Project location;

11 (2) Number of on-site employees;

12 (3) Duration of the operation;

13 (4) Name of the applicant's owner and operator;

14 (5) Name of the applicant's principal officer and name of the person primarily
15 responsible for complying with environmental laws;

16 (6) Maximum potential annual consumption of wood by the facility, measure by
17 weight;

18 (7) Tree species expected to be used by the facility, including the percentage that
19 each species will comprise of the total annual consumption of wood;

20 (8) Sources of wood and the percentage from each source, including but not limited
21 to, contract logging, open market, other primary and secondary industries, and land owned
22 by the facility owner;

23 (9) Expected methods of timber harvest to be used at source locations;

24 (10) Expected procurement zones for wood, including identification of areas within
25 the zone where harvest will be most intense;

26 (11) Proposed methods of protecting water quality at the forest harvest sites and
27 whether the applicant will be responsible for implementing such methods;

28 (12) History of the applicant's efforts to protect water quality at other locations;

29 (13) Whether the applicant subscribes to, and applies principles of, third party
30 verified sustainable forestry practices on harvest sites; and

31 (14) Description of each notice of violation received by the applicant from the
32 department of natural resources within the five years preceding the date of the application.

640.286. 1. The director shall prepare a resource impact analysis prior to issuing
2 the applicant a permit pursuant to sections 640.280 to 640.301. The draft resource impact
3 analysis shall be completed within one hundred eighty days from the date of submission

4 of a complete application for a permit.

5 2. The resource impact analysis shall identify and analyze the immediate, long-
6 term, secondary, and cumulative impacts of the applicant's project on natural resources,
7 the environment, and the economy. The resource impact analysis shall include, but not be
8 limited to, the following:

9 (1) An identification of the available forest resources and existing forest resource
10 consumption within the procurement zone of the applicant's project;

11 (2) An analysis of the impact of the forest resource consumption of the applicant's
12 project on existing uses of forest resources including tourism, recreation, and supply and
13 quality of lumber; and

14 (3) An identification and analysis of the impact on forest productivity, water
15 quality, fish and wildlife species and their habitat, wetlands, and public lands.

 640.289. 1. The director shall accept public comment on the permit application and
2 draft resource impact analysis. The director shall hold at least one public hearing on the
3 permit application and draft resource impact analysis during the comment period. The
4 comment period shall be open for at least thirty days from the publication of notice in any
5 newspaper qualified pursuant to section 493.050, RSMo, to public legal notices in the
6 county in which the land is located.

7 2. The director shall prepare a final resource impact analysis within thirty days
8 after the close of the public comment period. The final resource impact analysis shall
9 contain a response to all substantive comments submitted during the public comment
10 period.

 640.292. 1. The director shall approve, condition, or deny a permit application only
2 after considering all relevant information, including but not limited to, the permit
3 application, public comments, and final resource impact analysis.

4 2. The director shall make a decision to approve, condition, or deny a permit
5 application within forty-five days after the close of the public comment period.

6 3. The director shall deny a permit application if:

7 (1) All requirements set forth in sections 640.280 to 640.301 have not been met; or

8 (2) A significantly negative impact to natural resources, the environment, or the
9 economy is expected to result from the proposed activities.

10 4. The director may approve a permit application which otherwise would be denied
11 pursuant to the provisions of sections 640.280 to 640.301 if the director imposes conditions
12 in the permit that will have the result that:

13 (1) All requirements set forth in sections 640.280 to 640.301 have been met; and

14 (2) No significantly negative impact to natural resources, the environment, or the

15 economy will result from the proposed activities.

16 **5. Prior to approval of a permit conditioned as set forth in subsection 4 of this**
17 **section, a draft permit including the conditions shall be made available for public comment**
18 **for thirty days. The director shall consider the comments received and issue or deny the**
19 **permit within fifteen days following the close of the comment period. Notice of the**
20 **comment period shall be provided as specified in section 640.289.**

640.295. No person shall construct or make a modification to a chip mill unless and
2 **until a permit has been obtained pursuant to sections 640.280 to 640.301. The director**
3 **shall ensure that the provisions of sections 640.280 to 640.301 are enforced. In the event**
4 **that construction or modification of a chip mill is begun prior to the issuance of a permit,**
5 **the owner shall be assessed an administrative penalty of a minimum of five hundred dollars**
6 **and a maximum of five thousand dollars for each day that construction or modification**
7 **occurred without a permit. If enforcement is not secured through conference, conciliation,**
8 **or persuasion, the director shall cause to have instituted a civil action in any court of**
9 **competent jurisdiction for injunctive relief to prevent any further violation or for the**
10 **assessment of a penalty.**

640.298. All final orders or determinations of the director made pursuant to the
2 **provisions of sections 640.280 to 640.301 shall be subject to judicial review pursuant to the**
3 **provisions of sections 536.100 to 536.140, RSMo.**

640.301. The director may adopt, repeal, and amend such rules as are necessary to
2 **carry out the duties assigned pursuant to sections 640.280 to 640.301. No rule or portion**
3 **of a rule promulgated pursuant to the authority of sections 640.280 to 640.301 shall become**
4 **effective unless it has been promulgated pursuant to chapter 536, RSMo.**